

House Bill 3080

Sponsored by Representative GELSER; Representatives BARKER, C EDWARDS, SHIELDS, STIEGLER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Directs school districts to encourage and assist children with disabilities to participate in athletic activities that are available to children who do not have disabilities. Requires school district boards to adopt related policies and procedures.

Applies to school years beginning with 2011-2012 school year.

A BILL FOR AN ACT

1
2 Relating to access to physical opportunities in schools; creating new provisions; and amending ORS
3 329.496, 329.498 and 329.501.

4 Whereas the Rehabilitation Act of 1973 provides that exclusion and segregation of individuals
5 with disabilities by recipients of federal funds is prohibited discrimination; and

6 Whereas the Americans with Disabilities Act, signed into law in 1990, provides that no qualified
7 individual with a disability shall, by reason of the disability, be excluded from participation in or
8 be denied the benefits of the services, programs or activities of a public entity or be subjected to
9 discrimination by a public entity; and

10 Whereas approximately 56 million people in the United States have documented disabilities; and

11 Whereas studies indicate that 56 percent of people with disabilities do not engage in any phys-
12 ical activity, compared to 36 percent of people without disabilities, and only 23 percent of people
13 with disabilities are active for 30 minutes a day for three or more days per week; and

14 Whereas childhood obesity is a national health concern, and physical activity can help prevent
15 secondary health problems related to disabilities; and

16 Whereas Oregon public schools offer a variety of physical education and athletic opportunities
17 to students that provide numerous educational benefits, including greater academic success, better
18 physical and psychological health, responsible social behavior and enhanced interpersonal skills; and

19 Whereas sports participation is an effective intervention in combating obesity; and

20 Whereas the benefits and opportunities of physical education, athletic opportunities and sports
21 participation are particularly significant for students with disabilities; and

22 Whereas students with disabilities have historically been underserved by school physical edu-
23 cation, interscholastic athletics and other athletic opportunities at public schools; and

24 Whereas including students with disabilities in mainstream physical education, interscholastic
25 athletics and other athletic opportunities at public schools can provide students with disabilities
26 with the opportunity to realize the full benefits of those programs; now, therefore,

27 **Be It Enacted by the People of the State of Oregon:**

28 **SECTION 1. Section 2 of this 2009 Act is added to and made a part of ORS chapter 343.**

29 **SECTION 2. (1) As used in this section, "athletic activities" includes physical education,**
30 **interscholastic athletics and any other athletic opportunities at a public school.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 (2) Each district school board shall encourage and assist children with disabilities to
2 participate in athletic activities that are available to children who do not have disabilities.

3 (3) Each district school board shall adopt policies and procedures that facilitate the in-
4 tegration of children with disabilities into athletic activities that are available to children
5 who do not have disabilities.

6 (4) The Department of Education shall adopt model policies and procedures and provide
7 technical assistance to district school boards for the purpose of complying with this section.

8 (5) The State Board of Education shall adopt by rule procedures by which the Super-
9 intendent of Public Instruction may investigate and resolve complaints that a school district
10 is not in compliance with the requirements of this section.

11 **SECTION 3.** Section 2 of this 2009 Act first applies to the 2011-2012 school year.

12 **SECTION 4.** (1) On or before October 1, 2012, each district school board shall submit to
13 the Department of Education a report that provides:

14 (a) The policies and procedures adopted by the district school board as provided by sec-
15 tion 2 of this 2009 Act; and

16 (b) The number of children with disabilities in the school district that participate in
17 athletic activities, as defined in section 2 of this 2009 Act, that are available to children who
18 do not have disabilities.

19 (2) On or before February 15, 2013, the department shall submit to the legislative com-
20 mittees on education a summary of the reports submitted to the department as provided by
21 subsection (1) of this section.

22 **SECTION 5.** ORS 329.496 is amended to read:

23 329.496. (1) Every public school student in kindergarten through grade 8 shall participate in
24 physical education for the entire school year. Students in kindergarten through grade 5 shall par-
25 ticipate in physical education for at least 150 minutes during each school week. Students in grades
26 6 through 8 shall participate in physical education for at least 225 minutes during each school week.

27 (2) School districts and public charter schools shall offer instruction in physical education that
28 meets the academic content standards for physical education adopted by the State Board of Educa-
29 tion under ORS 329.045. The instruction shall be a sequential, developmentally appropriate curric-
30 ulum that is designed, implemented and evaluated to help students develop the knowledge, motor
31 skills, self-management skills, attitudes and confidence needed to adopt and maintain physical ac-
32 tivity throughout their lives.

33 (3) School districts and public charter schools shall devote at least 50 percent of physical edu-
34 cation class time to actual physical activity in each school week, with as much class time as possi-
35 ble spent in moderate physical activity.

36 (4)(a) *[Notwithstanding subsections (1) and (3) of this section,]* **A student with disabilities shall**
37 **be encouraged and assisted in participating in physical education as provided by subsections**
38 **(1) and (3) of this section.** A student with disabilities **that is not able to participate in physical**
39 **education as provided by subsections (1) and (3) of this section** shall have suitably adapted
40 physical education incorporated as part of the individualized education program developed for the
41 student under ORS 343.151.

42 (b) Notwithstanding subsections (1) and (3) of this section, a student who does not have an in-
43 dividualized education program but has chronic health problems, other disabling conditions or other
44 special needs that preclude the student from participating in regular physical education instruction
45 shall have suitably adapted physical education incorporated as part of an individualized health plan

1 developed for the student by the school district or public charter school.

2 (5) School districts and public charter schools shall assess school curricula at regular intervals
3 to measure the attainment of the minimum number of minutes that students are required to partic-
4 ipate in physical education under this section.

5 (6) All teachers of physical education for public school students in kindergarten through grade
6 8 shall be adequately prepared and shall regularly participate in professional development activities
7 to effectively deliver the physical education program.

8 **SECTION 6.** ORS 329.498 is amended to read:

9 329.498. The Department of Education shall collect data from school districts on:

10 (1) The number of minutes of physical education that are provided to students in kindergarten
11 through grade 8 each school week in each public school within the district;

12 (2) The physical capacity of public schools to provide students in kindergarten through grade 8
13 with at least 150 minutes of physical education during each school week and to provide students in
14 grades 6 through 8 with at least 225 minutes of physical education during each school week; [*and*]

15 (3) The additional facilities required by public schools to provide physical education to students
16 as described in subsection (2) of this section[.]; **and**

17 **(4) The ability of public schools to provide physical education to students with disabilities**
18 **as provided by ORS 329.496 (1) and (3), and a summary of suitably adapted physical education**
19 **provided to students with disabilities who are not able to participate in physical education**
20 **as provided by ORS 329.496 (1) and (3).**

21 **SECTION 7.** ORS 329.501 is amended to read:

22 329.501. (1) The Department of Education shall award grants to school districts and public
23 charter schools for the purpose of meeting the physical education requirements of ORS 329.496.

24 (2) A district or school that receives a grant may use the grant to:

25 (a) Hire teachers who specialize in physical education; [*and*]

26 (b) Provide in-service training to teachers on the academic content standards for physical edu-
27 cation and the requirements of ORS 329.496[.]; **and**

28 **(c) Assist schools in providing physical education to students with disabilities.**

29 (3) The department shall determine:

30 (a) The amount of a grant;

31 (b) The criteria for awarding a grant; and

32 (c) The process for awarding grants.

33 (4) The State Board of Education may adopt any rules necessary to administer this section.
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